

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

AWARE PRODUCTS LLC D/B/A)	
VOYANT BEAUTY,)	
)	
Plaintiff,)	
)	No. 4:21-cv-249-SEP
v.)	
)	
EPICURE MEDICAL, LLC,)	
FOXHOLE MEDICAL, LLC,)	
LEE ORI, individually and as co-trustee)	
of the LEE E ORI & JACLYN C ORI)	
LIVING TRUST, JACLYN C. C ORI,)	
as co-trustee of the LEE E ORI &)	
JACLYN C ORI LIVING TRUST,)	
DAN REILLY, SARAH SIMMERS,)	
CLOVER LEAF STRATEGIES, LLC,)	
PFL INVESTMENTS, LLC, and)	
NEO HEALTH, LLC,)	
)	
Defendants.)	

**DECLARATION OF ROBERT C. PENN JR. IN SUPPORT OF PLAINTIFF'S
MOTION FOR SUMMARY JUDGMENT**

I, ROBERT C. PENN JR., an attorney admitted pro hac vice to practice in the United States District Court of the Eastern District of Missouri, hereby declare that the following is true and correct under penalties of perjury pursuant to 28 U.S.C. § 1746:

1. I am an attorney at Sher Tremonte LLP and counsel for Plaintiff Aware Products LLC d/b/a Voyant Beauty ("Voyant"). I submit this declaration in support of Plaintiff's Motion for Summary Judgment.
2. Attached hereto as **Exhibit 1** is a true and correct copy of purchase orders from Epicure Medical, LLC ("Epicure"), previously marked as Exhibit 14 in the deposition of Lee Ori ("Ori"), produced in this action at Bates Number DEF4741-DEF4748.

3. Attached hereto as **Exhibit 2** is a true and correct copy of an email thread, dated June 22, 2020, produced in this action at Bates Numbers AWAREVOYANT_003368 - AWAREVOYANT_003370.

4. Attached hereto as **Exhibit 3** is a true and correct copy of invoices issued to Epicure, produced in this action at Bates DEF0970-DEF0972, DEF0451-DEF0453, DEF1594-DEF1597, AWAREVOYANT_003415-AWAREVOYANT_003449.

5. Attached hereto as **Exhibit 4** is a true and correct copy of an email thread and account statement, dated June 24, 2020, produced in this action at Bates Number DEF1641-DEF1643.

6. Attached hereto as **Exhibit 5** is a true and correct copy of an email thread, dated June 25, 2020, previously marked as Exhibit 21 in Ori's deposition, produced in this action at Bates Number DEF1646-DEF1648.

7. Attached hereto as **Exhibit 6** is a true and correct copy of an email and account statement from Michael Partridge ("Partridge") to Ori, dated July 15, 2020, produced in this action at Bates Number AWAREVOYANT_003963 – AWAREVOYANT_003965.

8. Attached hereto as **Exhibit 7** is a true and correct copy of an email from Ori to Dan Reilly ("Reilly"), dated July 15, 2020, produced in this action at Bates Number DEF0774-DEF0775.

9. Attached hereto as **Exhibit 8** is a true and correct copy of an email thread, dated August 17, 2020, produced in this action at Bates Number AWAREVOYANT_003661 - AWAREVOYANT_003663.

10. Attached hereto as **Exhibit 9** is a true and correct copy of an email from Ori to Voyant, dated August 25, 2020, produced in this action at Bates Number DEF0635-DEF0637

11. Attached hereto as **Exhibit 10** is a true and correct copy of an email thread, dated September 7, 2020, previously marked as Exhibit 25 in the deposition of Ori, produced in this action at Bates number DEF0421-DEF0422.

12. Attached hereto as **Exhibit 11** is a true and correct copy of an email thread, dated October 22, 2020, previously marked as Exhibit 27 in the deposition of Ori, produced in this action at Bates number DEF0426-DEF0427.

13. Attached hereto as **Exhibit 12** is a true and correct copy of an email, dated November 2, 2020, produced in this action at Bates number DEF4277-DEF4279.

14. Attached hereto as **Exhibit 13** is a true and correct copy of an account statement, dated November 18, 2020, produced in this action at Bates Number AWAREVOYANT_000165 - AWAREVOYANT_000165.

15. Attached hereto as **Exhibit 14** is a true and correct copy of Epicure's Operating Agreement, previously marked as Exhibit 8 in the deposition of Ori, produced in this action at Bates Number DEF3505-DEF3545.

16. Attached hereto as **Exhibit 15** is a true and correct copy of Epicure's 2020 Balance Sheet and Profit Loss Statement, previously marked as Exhibit 31 in the deposition of Ori, produced in this action at Bates Number DEF3495-3497.

17. Attached hereto as **Exhibit 16** is a true and correct copy of PFL Investments LLC K-1 Form produced in this action at Bates Number DEF5247-DEF5255.

18. Attached hereto as **Exhibit 17** is a true and correct copy of Clover Leaf Strategies LLC K-1 Form produced in this action at Bates Number DEF5208-DEF5216.

19. Attached hereto as **Exhibit 18** is a true and correct copy of Neo Health, LLC's ("Neo") bank account statements produced in this action at Bates Number DEF5379-DEF5386.

20. Attached hereto as **Exhibit 19** is a true and correct copy of the bank account statements of the Lee E Ori and Jaclyn C Ori Living Trust produced in this action at Bates Number DEF5379-DEF5386.

21. Attached hereto as **Exhibit 20** is a true and correct copy of Epicure's bank account statements produced in this action at Bates Number DEF5087-DEF5204.

22. Attached hereto as **Exhibit 21** is a true and correct copy of Defendants Epicure, Ori, and Foxhole Medical's Objections and Responses to Plaintiff's First Set of Requests for Admission to Defendants, dated January 14, 2022.

23. Attached hereto as **Exhibit 22** is a true and correct copy of Defendants' Objections and Responses to Plaintiff's Second Set of Requests for Admission to Defendants, dated December 21, 2022.

24. Attached hereto as **Exhibit 23** is a true and correct copy of Defendants' Objections and Answers to Plaintiff's Second Set of Interrogatories Directed to Defendants, dated December 21, 2022.

25. Attached hereto as **Exhibit 24** is a true and correct copy of Defendants Lee Ori and Jaclyn C. Ori, as co-trustees of the Lee E Ori & Jaclyn C Ori Living Trust, Dan Reilly, Sarah Simmers, Clover Leaf Strategies, LLC, PFL Investments, LLC, and Neo Health, LLC's Answer and Affirmative Defenses to Second Amended Complaint (ECF No. 55), dated July 20, 2022.

26. Attached hereto as **Exhibit 25** is a true and correct copy of Defendants Epicure Medical LLC, Lee Ori, and Foxhole Medical's Answer and Affirmative Defenses to Second Amended Complaint (ECF No. 52), dated May 24, 2022.

27. Attached hereto as **Exhibit 26** is a true and correct copy of the Second Amended Complaint (ECF No. 50) dated April 8, 2022, and filed May 9, 2022.

28. Attached hereto as **Exhibit 27** is a true and correct copy of excerpts of the deposition of Defendant Lee Ori, dated March 24, 2022. Ori testified in his individual capacity and was the sole 30(b)(6) for Epicure and Foxhole.

29. Attached hereto as **Exhibit 28** is a true and correct copy of excerpts of the deposition of Defendant Sarah Simmers, dated March 29, 2022.

30. Attached hereto as **Exhibit 29** is a true and correct copy of excerpts of the deposition of Defendant Dan Reilly, dated April 1, 2022.

31. Attached hereto as **Exhibit 30** is a true and correct copy of an email from Ori to Voyant, dated May 24, 2020, produced in this action at Bates Number DEF0572.

32. Attached hereto as **Exhibit 31** is a true and correct copy of documents produced in this action at Bates Number AWAREVOYANT_004607-004608; AWAREVOYANT_004614-004617; AWAREVOYANT_004626.

33. Attached hereto as **Exhibit 32** is a true and correct copy of an agreement and invoice from Sooner Express, Inc. produced in this action at Bates Number AWAREVOYANT_004618- AWAREVOYANT_004623.

34. Attached hereto as **Exhibit 33** is a true and correct copy of Neo's Operating Agreement produced in this action at Bates Number DEF5237-DEF5239.

35. Attached hereto as **Exhibit 34** is a true and correct copy of a spreadsheet, produced in this action at Bates Number AWAREVOYANT_004625.

36. Attached hereto as **Exhibit 35** is a true and correct copy of an email thread and attachment, dated November 24, 2020, produced in this action at Bates Number DEF0549 - DEF0551.

37. Attached hereto as **Exhibit 36** is a true and correct copy of a spreadsheet produced in this action at Bates Number AWAREVOYANT_004624.

38. Attached hereto as **Exhibit 37** is a true and correct copy of a document, dated May 8, 2020, previously marked as Exhibit 16 in the deposition of Ori, produced in this action at Bates number DEF4737-DEF4740.

39. Attached hereto as **Exhibit 38** is a true and correct copy of an email thread, dated June 2, 2020, produced in this action at Bates number AWAREVOYANT_001961 - AWAREVOYANT_001963.

40. Attached hereto as **Exhibit 39** is a true and correct copy of an email thread, dated June 5, 2020, produced in this action at Bates number AWAREVOYANT_002026- AWAREVOYANT_002028.

41. Attached hereto as **Exhibit 40** is a true and correct copy of an email thread, dated June 8, 2020, produced in this action at Bates number AWAREVOYANT_002051 - AWAREVOYANT_002052.

42. Attached hereto as **Exhibit 41** is a true and correct copy of an email thread, dated June 24, 2020, produced in this action at Bates number AWAREVOYANT_003377 - AWAREVOYANT_003377.

Dated: March 22, 2023
New York, New York

/s/ Robert C. Penn Jr.
Robert C. Penn Jr.